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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,353	01/20/2004	Tsutomu Motohashi	R2184.0294/P294	9909
24998 7590 08/18/2008 DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403				
EXAMINER NGUYEN, LINH THI				
ART UNIT		PAPER NUMBER		
2627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,353

Applicant(s)

MOTOHASHI, TSUTOMU

Examiner

LINH T. NGUYEN

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee (US Publication Number 20040004917).

In regards to claim 1, Lee discloses an information recording/reproducing apparatus that performs reading and writing of information with respect to an information recording medium in which user data areas and alternative areas are alternately arranged (Fig. 5) at the end of each group is a spare area), said apparatus comprising: a device for reading and writing the information; and means for performing a certify process and verify process with respect to the user data areas and the alternative areas in a predetermined sequence (Fig. 5, element 38 and Fig. 6, format of the data area DA, and alternative area SA), when an error occurs during the certify process or the verify process performed with respect to one of the user data areas, such that an alternative destination is selected from an adjacent alternative area corresponding to the user data area when an unused field exists (Fig. 7A, the unused field exists in the DT if label as F=Free) in the adjacent alternative area (Fig. 7A, SA is

next to the data area DA), and such that the alternative destination is selected from another alternative area on which the certify process and the verify process have already been performed according to the predetermined sequence in the case where an unused field does not exist in the adjacent alternative area (Fig. 7A-B, Paragraph [0051]-[0052]), wherein each user data area is preceded by a corresponding adjacent alternative area (Fig. 7A-B).

In regards to claims 2 and 6, Lee discloses the information recording/reproducing apparatus as claimed in claim 1, further comprising: means for performing, when the error occurs in the certify process or the verify process and the alternative destination is to be assigned (Paragraph [0047])), in the case where the certify process and the verify process are not performed on the alternative area having the alternative destination, the certify process and the verify process on the alternative area having the alternative destination (Paragraphs [0048]-[0050])); and means for assigning, when an error occurs in the certify process or the verify process performed by said means for performing the certify process and the verify process (Paragraph [0051]), the alternative destination in an alternative area other than the alternative area in which the error occurs (Fig. 7B).

In regards to claims 3 and 7, Lee discloses the information recording/reproducing apparatus as claimed in claim 1, further comprising: means for performing the certify process and the verify process on the alternative area first before the user data area (Paragraph [0043]); and means for registering, as a position the use of which is

prohibited (Paragraph [0044]), a position in the alternative area at which position an error occurs in the certify process or the verify process performed by means for performing the certify process and the verify process (Fig. 7B, since B8 is defective it is replace in S13).

In regards to claims 4 and 8, Lee discloses the information recording/reproducing apparatus as claimed in claim 1 further comprising: means for maintaining a position at which the error occurs when the certify process or the verify process is performed on the one of the user data areas; and means for assigning, after the certify process and the verify process are performed on the alternative area, the alternative destination with respect to the user data area having the maintained position (Paragraph [0053]).

In regards to claims 5, 10, 11 and 15-20, Lee discloses an information recording/reproducing apparatus that performs recording and reproducing of information with respect to a recording medium having a plurality of user data areas (Fig. 6, plurality of data area DA) for recording user data therein and a plurality of alternative areas (Fig. 6, spare area SA) corresponding to the respective user data areas and each having an alternative field for replacing a defect field in the user data areas (Fig. 6), said apparatus comprising: a formatting part that performs a format process with respect to the user data area and the alternative areas in a predetermined sequence (Fig. 7A); a defect field detection part that detects a defect field at the time of a format process or recording of information before the format process is completed with respect to all the user data

areas and all the alternative areas (Fig. 6 and Paragraph [0045]); a first usable field determination part that determines whether an alternative field allowing replacement exists in the alternative area corresponding to the user data area having the defect field detected by said defect field detection part (Fig. 7A, allowing replacement is mark "F"); and a first alternative field assigning part that assigns, when said first usable field determination part determines that the alternative field does not exist (Fig. 7A, does not exist "U" and "D"), as an alternative field for replacing the defect field, an alternative field in another alternative area to which the format process has already been performed according to the predetermined sequence (Paragraph [0051]), wherein each user data area is preceded by a corresponding adjacent alternative area (Fig. 7A-B).

In regards to claim 9, Lee discloses the information recording/reproducing apparatus as claimed in claim 7, further comprising: a second usable field determination part that determines, when the formatted alternative area determination part determines that an alternative area exists on which the format process is performed, whether an alternative field allowing replacement exists in the alternative area on which the format process is performed (Fig. 7A, if the alternative area exist, it will be mark as "F"), wherein, when the second usable field determination part determines that an alternative field allowing replacement does not exist (Fig. 7A, does not exist is mark with "U" and "D"), the second alternative field assigning part assigns, as an alternative field for the defect field (Fig. 7A, mark as "D" for defective), a predetermined field in an alternative

area on which the format process is not performed (Fig. 7A).

Response to Arguments

Applicant's arguments, see page 13, filed 4/22/08, with respect to the rejection(s) of claim(s) 1-11 and 15-20 under Bish have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lee.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH T. NGUYEN whose telephone number is (571)272-5513. The examiner can normally be reached on 10:00am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TAN Xuan DINH/
Primary Examiner, Art Unit 2627
August 14, 2008

LN
August 14, 2008